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H.R. 6346 – TO PROTECT CUSTOMERS FROM PRICE-GOUGING OF GASOLINE AND OTHER FUELS, AND FOR OTHER PURPOSES

FLOOR SITUATION

H.R. 6346 is being considered on the floor under suspension of the rules and will require a two-thirds majority vote for passage. This legislation was introduced by Representative Bart Stupak (D-MI) on June 23, 2008. The resolution was referred to the House Committee on Energy and Commerce as well as the Committee on Education and Labor, but was never considered.

H.R. 6346 is expected to be considered on the floor of the House on June 24, 2008.

SUMMARY

H.R. 6346 prohibits the sale of gasoline or other petroleum distillates during a period of emergency at a price that is excessive and indicates that the seller is unfairly exploiting the emergency period by increasing the price of gas.

Presidential Emergency Proclamation
The bill authorizes the President to issue an emergency proclamation applying the sale prohibition to any area within the jurisdiction of the U.S. The proclamation will state the area(s) to which the prohibition applies, the types of petroleum products covered, and the time period for which the proclamation will be in effect. These periods are to last no longer than thirty days, (but may be renewed for consecutive periods) and may include a period of time not exceeding one week that precedes a reasonably foreseeable emergency.

Excessive Pricing
Factors used in determining whether a person is unfairly increasing the price of gas include whether the sale price of gas in an area covered by an emergency proclamation: 1) grossly exceeds the seller's average gas price for the thirty days preceding the issuance of the emergency proclamation; 2) grossly exceeds the price at which the same or similar gasoline was selling for in the same area over the thirty day period preceding the emergency proclamation; 3) reflected additional costs out of the sellers control, that were reasonably foreseeable, or reflected additional risks taken by the seller to produce, distribute, obtain, or sell gasoline; and 4) was substantially attributable to local, regional, national, and international market conditions.

Additional factors include whether the amount of gasoline a person produced, distributed, or sold during the thirty day period following the issuance of the emergency proclamation increased over the amount that was produced, distributed, or sold prior to the emergency proclamation (taking usual seasonal demands into account).

Enforcement
The provisions included in this legislation will be enforced by the Federal Trade Commission (FTC) and any violation of these provisions will be treated as an unfair or deceptive practice in violation of the law. Violations of the provisions in this legislation by companies with over $5 million in wholesale or retail sales in the U.S. will be given priority in the FTC enforcement of these provisions.

Civil Penalties
In addition to the FTC enforcement, violators of this legislation will be subject to civil penalties of up to $3 million or three times the amount of profits made by the violator.

Criminal Penalties

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In addition to FTC and civil penalties, corporations and individuals found to be in violation are subject to criminal fines of up to $150 million and $2 million, respectively.

Enforcement by States
A State may bring a civil action against persons in violation of this legislation and must notify the FTC of such action. The FTC may then intervene and be heard on all aspects of the civil action brought by the State and may file petitions for the appeal of a decision.

Low Income Emergency Assistance
All fines collected by the FTC are to be deposited in a separate treasury fund called the Consumer Relief Trust Fund and will be used to provide assistance under the Low Income Home Energy Assistance Program administered by the Secretary of Health and Human Services.

BACKGROUND

The rapid increase in gasoline prices following the Hurricane Katrina disaster led to allegations of price gouging in affected regions, which were largely refuted by a Federal Trade Commission study. Recent instability in the global oil market have resurfaced concerns about fuel price gouging. The national average price for a gallon of gasoline today is $4.07, according to the American Automobile Association.

The House passed an identical bill, H.R. 1252, "The Federal Price Gouging Prevention Act", on May 23, 2007. This bill was approved by a vote of 284-141. Several Republicans objected to this legislation, arguing that H.R. 1252 provided no clear definition of "price gouging" and was overly vague, among other concerns. The Administration similarly argued that the legislation could result in gasoline price controls and issued a veto threat. H.R. 1252 was never considered by the Senate.

COST

The Congressional Budget Office has did not have a score available for H.R. 6346 as of June 24, 2008.

STAFF CONTACT

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